

1 **PROPERTY TAX CHANGES**

2 2018 GENERAL SESSION

3 STATE OF UTAH

4 **Chief Sponsor: Timothy D. Hawkes**

5 Senate Sponsor: _____

7 **LONG TITLE**

8 **General Description:**

9 This bill modifies the property tax valuation and appeals processes for county assessed
10 real property.

11 **Highlighted Provisions:**

12 This bill:

- 13 ▶ defines terms;
- 14 ▶ modifies the burden of proof for appeals involving certain real property for which
15 there was a reduction in value as a result of a taxpayer appeal during the previous
16 taxable year;
- 17 ▶ creates an automatic county review process for a real property valuation or
18 equalization that exceeds a certain threshold; and
- 19 ▶ makes technical and conforming changes.

20 **Money Appropriated in this Bill:**

21 None

22 **Other Special Clauses:**

23 This bill provides a special effective date.

24 **Utah Code Sections Affected:**

25 AMENDS:

26 **59-2-109**, as enacted by Laws of Utah 2016, Chapter 392

27 **59-2-303**, as last amended by Laws of Utah 1993, Chapter 245



28 [59-2-311](#), as last amended by Laws of Utah 2005, Chapter 182
 29 [59-2-1004](#), as last amended by Laws of Utah 2016, Chapter 98
 30 [59-2-1004.5](#), as last amended by Laws of Utah 2008, Chapter 382

31 ENACTS:

32 [59-2-303.2](#), Utah Code Annotated 1953



34 *Be it enacted by the Legislature of the state of Utah:*

35 Section 1. Section **59-2-109** is amended to read:

36 **59-2-109. Burden of proof.**

37 (1) As used in this section~~["assessing"]~~:

38 (a) "Assessing authority" means:

39 ~~[(a)]~~ (i) the commission for property assessed under Part 2, Assessment of Property;

40 and

41 ~~[(b)]~~ (ii) a county assessor for property assessed under Part 3, County Assessment.

42 (b) "Final assessed value" means:

43 (i) for real property for which the property owner appealed the valuation or
 44 equalization in accordance with Section [59-2-1004](#), the assessed value given to the real
 45 property by a county board of equalization after the appeal; or

46 (ii) for real property for which the property owner or a county assessor appealed the
 47 valuation or equalization in accordance with Section [59-2-1006](#) or sought judicial review of the
 48 valuation or equalization in accordance with Section [59-1-602](#) or Title 63G, Chapter 4, Part 4,
 49 Judicial Review, the assessed value given to the real property by the commission.

50 (c) "Inflation adjusted value" means the final assessed value for the previous taxable
 51 year of the real property that is the subject of the appeal increased by the median property value
 52 increase.

53 (d) "Median property value increase" means the midpoint of the property value
 54 changes, if the midpoint is greater than zero, for all real property that is:

55 (i) of the same median class of real property as the qualified property; and

56 (ii) located within the same county as the qualified property.

57 (e) "Property value change" means the percentage change in the fair market value of
 58 real property between January 1 of the previous year and January 1 of the current year.

59 (f) "Qualified real property" means real property:
60 (i) for which:
61 (A) the taxpayer or a county assessor appealed the valuation or equalization in
62 accordance with Section 59-2-1004 or 59-2-1006 during the previous year; and
63 (B) as a result of the appeal described in Subsection (1)(f)(i)(A), a county board of
64 equalization or the commission reduced the assessed value for the previous taxable year;
65 (ii) that the taxpayer has not improved between January 1 of the previous taxable year
66 and January 1 of the current taxable year; and
67 (iii) for which the assessed value for the current taxable year is higher than the inflation
68 adjusted value.
69 (2) Notwithstanding Section 59-1-604, in an action appealing or seeking judicial
70 review of the value of property assessed by an assessing authority, the assessing authority has
71 the burden of proof before a county board of equalization, the commission, or a court of
72 competent jurisdiction[;] if the assessing authority presents evidence or otherwise asserts that
73 the fair market value of the assessed property is greater than the value originally assessed by
74 the assessing authority for that calendar year.
75 (3) (a) (i) Notwithstanding Section 59-1-604, in an action appealing or seeking judicial
76 review of the value of qualified real property assessed by a county assessor, the county assessor
77 has the burden of proof before a county board of equalization, the commission, or a court of
78 competent jurisdiction if the taxpayer does not seek to reduce the assessed value of the
79 qualified real property for the current taxable year below the inflation adjusted value.
80 (ii) The burden remains on the county assessor even if the previous year's valuation is:
81 (A) pending judicial review requested in accordance with Section 59-1-602 or Title
82 63G, Chapter 4, Part 4, Judicial Review; or
83 (B) overturned by a district court as a result of judicial review requested in accordance
84 with Section 59-1-602 or Title 63G, Chapter 4, Part 4, Judicial Review.
85 (b) In an action appealing or seeking judicial review of the value of qualified real
86 property assessed by a county assessor, the taxpayer has the burden of proof before a county
87 board of equalization, the commission, or a court of competent jurisdiction if the taxpayer
88 seeks to reduce the assessed value of the qualified real property for the current taxable year
89 below the inflation adjusted value.

90 Section 2. Section **59-2-303** is amended to read:

91 **59-2-303. General duties of county assessor.**

92 (1) [~~Prior to~~] (a) Before May 22 each year, the county assessor shall:

93 (i) ascertain the names of the owners of all property [~~which~~] that is subject to taxation
94 by the county[~~, and shall~~];

95 (ii) except as provided in Subsection (2), assess the property to the owner, claimant of
96 record, or occupant in possession or control at [12 o'clock midnight of January 1 in the tax
97 year, unless a subsequent conveyance of ownership of the real property was recorded in the
98 office of the county recorder more than 14 calendar days before the date of mailing of the tax
99 notice. In that case, any tax notice may be mailed, and the tax assessed, to the new owner. No
100 mistake in the name or address of the owner or supposed owner of property renders the
101 assessment invalid.] midnight on January 1 of the taxable year; and

102 (iii) conduct the review process described in Section 59-2-303.2.

103 (b) No mistake in the name or address of the owner or supposed owner of property
104 renders the assessment invalid.

105 (2) If a conveyance of ownership of the real property was recorded in the office of a
106 county recorder after January 1 but more than 14 calendar days before the day on which the
107 county treasurer mails the tax notice, the county assessor shall assess the property to the new
108 owner.

109 [~~(2)~~] (3) A county assessor shall become fully acquainted with all property in [~~his~~] the
110 county assessor's county, as provided in Section 59-2-301.

111 Section 3. Section **59-2-303.2** is enacted to read:

112 **59-2-303.2. Automatic review of assessed value of qualified property.**

113 (1) As used in this section:

114 (a) "Final assessed value" means:

115 (i) for a qualified property for which the property owner did not appeal the valuation or
116 equalization in accordance with Section 59-2-1004, the assessed value as stated on the
117 valuation notice described in Section 59-2-919.1;

118 (ii) for a qualified property for which the property owner appealed the valuation or
119 equalization in accordance with Section 59-2-1004, the assessed value given to the qualified
120 property by a county board of equalization after the appeal; or

121 (iii) for a qualified property for which the property owner or a county assessor appealed
122 the valuation or equalization in accordance with Section 59-2-1006 or sought judicial review of
123 the valuation or equalization in accordance with Section 59-1-602 or Title 63G, Chapter 4, Part
124 4, Judicial Review, the assessed value given to the qualified property by the commission.

125 (b) "Median property value change" means the midpoint of the property value changes
126 for all real property that is:

127 (i) of the same class of real property as the qualified property; and

128 (ii) located within the same county as the qualified property.

129 (c) "Property value change" means the percentage change in the fair market value of
130 real property between January 1 of the previous year and January 1 of the current year.

131 (d) "Qualified property" means real property located in the county:

132 (i) that between January 1 of the previous year and January 1 of the current year has not
133 been improved; and

134 (ii) for which the county assessor did not conduct a detailed review of property
135 characteristics during the current taxable year.

136 (e) "Threshold increase" means an increase in a qualified property's assessed value for
137 the current taxable year compared to the final assessed value of the qualified property for the
138 previous taxable year that is:

139 (i) the median property value change plus 15%; and

140 (ii) \$10,000.

141 (2) (a) Before completing and delivering the assessment book to the county auditor in
142 accordance with Section 59-2-311, the county assessor shall review an assessment of qualified
143 property for which the assessed value for the current taxable year is equal to or exceeds the
144 threshold increase.

145 (b) The county assessor shall keep an electronic record that:

146 (i) includes:

147 (A) a listing, by property owner and parcel number, of qualified property for the
148 taxable year;

149 (B) the date on which the county assessor conducted the review required by this
150 section; and

151 (C) the results of the review required by this section; and

152 (ii) is accessible by the county board of equalization on or before July 22 of the taxable
153 year.

154 (3) (a) If the county assessor determines that the assessed value of the qualified
155 property reflects the qualified property's fair market value, the county assessor shall not adjust
156 the qualified property's assessed value.

157 (b) If the county assessor determines that the assessed value of the qualified property
158 does not reflect the qualified property's fair market value, the county assessor shall adjust the
159 assessed value of the qualified property to reflect the fair market value.

160 (4) The review process described in this section does not supersede or otherwise affect
161 a taxpayer's right to appeal or to seek judicial review of the valuation or equalization of the
162 taxpayer's qualified property in accordance with:

163 (a) this part;

164 (b) Title 59, Chapter 1, Part 6, Judicial Review; or

165 (c) Title 63G, Chapter 4, Part 4, Judicial Review.

166 Section 4. Section **59-2-311** is amended to read:

167 **59-2-311. Completion and delivery of assessment book -- Signed statement**
168 **required -- Contents of signed statement -- Adjustment of assessment in assessment book.**

169 (1) [~~Prior to~~] Before May 22 each year, the county assessor shall complete and deliver
170 the assessment book to the county auditor.

171 (2) The county assessor shall subscribe and sign a statement in the assessment book
172 substantially as follows:

173 I, ____, the assessor of ____ County, do swear that before May 22, _____(year), I
174 made diligent inquiry and examination, and either personally or by deputy, established the
175 value of all of the property within the county subject to assessment by me; that the property has
176 been assessed on the assessment book equally and uniformly according to the best of my
177 judgment, information, and belief at its fair market value; that I have faithfully complied with
178 all the duties imposed on the assessor under the revenue laws including the requirements of
179 Section [59-2-303.1](#); and that I have not imposed any unjust or double assessments through
180 malice or ill will or otherwise, or allowed anyone to escape a just and equal assessment through
181 favor or reward, or otherwise.

182 (3) Before completing and delivering the assessment book under Subsection (1), the

183 county assessor shall adjust the assessment of property in the assessment book to reflect an
 184 adjustment in the taxable value of any property if the adjustment in taxable value is made:

185 (a) by the county board of equalization [~~under~~] in accordance with Section
 186 59-2-1004.5 [~~; and~~] on or before May 15; or

187 [~~(b) on or before May 15.~~]

188 (b) by the county assessor in accordance with Section 59-2-303.2.

189 Section 5. Section **59-2-1004** is amended to read:

190 **59-2-1004. Appeal to county board of equalization -- Real property -- Time**
 191 **period for appeal -- Decision of board -- Extensions approved by commission -- Appeal to**
 192 **commission.**

193 (1) As used in this section:

194 (a) "Final assessed value" means:

195 (i) for real property for which the property owner appealed the valuation or
 196 equalization in accordance with Section 59-2-1004, the assessed value given to the real
 197 property by a county board of equalization after the appeal; or

198 (ii) for real property for which the property owner or the county assessor appealed the
 199 valuation or equalization in accordance with Section 59-2-1006 or sought judicial review of the
 200 valuation or equalization in accordance with Section 59-1-602 or Title 63G, Chapter 4, Part 4,
 201 Judicial Review, the assessed value given to the real property by the commission.

202 (b) "Inflation adjusted value" means the final assessed value for the previous taxable
 203 year of the real property that is the subject of the appeal increased by the median property value
 204 increase.

205 (c) "Median property value increase" means the midpoint of the property value
 206 changes, if the midpoint is greater than zero, for all real property that is:

207 (i) of the same class of real property as the qualified property; and

208 (ii) located within the same county as the qualified property.

209 (d) "Property value change" means the percentage change in the fair market value of
 210 real property between January 1 of the previous year and January 1 of the current year.

211 (e) "Qualified real property" means real property:

212 (i) for which:

213 (A) the taxpayer or a county assessor appealed the valuation or equalization in

214 accordance with Section 59-2-1004 or 59-2-1006 during the previous year; and

215 (B) as a result of the appeal described in Subsection (1)(e)(i)(A), a county board of
 216 equalization or the commission reduced the assessed value for the previous taxable year;

217 (ii) that the taxpayer has not improved between January 1 of the previous taxable year
 218 and January 1 of the current taxable year; and

219 (iii) for which the assessed value for the current taxable year is higher than the inflation
 220 adjusted value.

221 ~~[(+)]~~ (2) (a) A taxpayer dissatisfied with the valuation or the equalization of the
 222 taxpayer's real property may make an application to appeal by:

223 (i) filing the application with the county board of equalization within the time period
 224 described in Subsection ~~[(2)]~~ (3); or

225 (ii) making an application by telephone or other electronic means within the time
 226 period described in Subsection ~~[(2)]~~ (3) if the county legislative body passes a resolution under
 227 Subsection ~~[(7) authorizing applications to be made]~~ (8) authorizing a taxpayer to make an
 228 application by telephone or other electronic means.

229 (b) (i) The county board of equalization shall make a rule describing the contents of the
 230 application ~~[shall be prescribed by rule of the county board of equalization].~~

231 (ii) In addition to any information the county board of equalization requires, the
 232 application shall include information about:

233 (A) the burden of proof in an appeal involving qualified real property; and

234 (B) the process for a taxpayer who owns qualified real property to learn the inflation
 235 adjusted value of the qualified real property.

236 ~~[(2)]~~ (3) (a) Except as provided in Subsection ~~[(2)(b);]~~ (3)(b) and for purposes of
 237 Subsection (1), a taxpayer shall make an application to appeal the valuation or the equalization
 238 of the taxpayer's real property on or before the later of:

239 (i) September 15 of the current calendar year; or

240 (ii) the last day of a 45-day period beginning on the day on which the county auditor
 241 provides the notice under Section 59-2-919.1.

242 (b) ~~[Notwithstanding Subsection (2)(a), in]~~ In accordance with Title 63G, Chapter 3,
 243 Utah Administrative Rulemaking Act, the commission shall make rules providing for
 244 circumstances under which the county board of equalization is required to accept an application

245 to appeal that is filed after the time period prescribed in Subsection ~~[(2)]~~ (3)(a).

246 ~~[(3) The owner]~~

247 (4) (a) Except as provided in Subsection (4)(b), the taxpayer shall include in the
248 application under Subsection ~~[(1)]~~ (2)(a)(i) the taxpayer's estimate of the fair market
249 value of the property and any evidence ~~[which]~~ that may indicate that the assessed valuation of
250 the ~~owner's~~ taxpayer's property is improperly equalized with the assessed valuation of
251 comparable properties.

252 (b) (i) For an appeal involving qualified real property:

253 (A) the county board of equalization shall presume that the fair market value of the
254 qualified real property is equal to the inflation adjusted value; and

255 (B) except as provided in Subsection (4)(b)(ii), the taxpayer may provide the
256 information described in Subsection (4)(a).

257 (ii) If the taxpayer seeks to prove that the fair market value of the qualified real
258 property is below the inflation adjusted value, the taxpayer shall provide the information
259 described in Subsection (4)(a).

260 ~~[(4)]~~ (5) In reviewing evidence submitted to a county board of equalization by or on
261 behalf of an owner or a county assessor, the county board of equalization shall consider and
262 weigh:

263 (a) the accuracy, reliability, and comparability of the evidence presented by the owner
264 or the county assessor;

265 (b) if submitted, the sales price of relevant property that was under contract for sale as
266 of the lien date but sold after the lien date;

267 (c) if submitted, the sales offering price of property that was offered for sale as of the
268 lien date but did not sell, including considering and weighing the amount of time for which,
269 and manner in which, the property was offered for sale; and

270 (d) if submitted, other evidence that is relevant to determining the fair market value of
271 the property.

272 ~~[(5)]~~ (6) (a) The county board of equalization shall meet and hold public hearings as
273 [prescribed] described in Section 59-2-1001.

274 (b) The county board of equalization shall make a decision on each appeal filed in
275 accordance with this section within ~~[a 60-day period]~~ 60 days after the day on which the

276 taxpayer makes an application [~~is made~~].

277 (c) The commission may approve the extension of a time period provided for in
278 Subsection [~~(5)~~] (6)(b) for a county board of equalization to make a decision on an appeal.

279 (d) Unless the commission approves the extension of a time period under Subsection
280 [~~(5)~~] (6)(c), if a county board of equalization fails to make a decision on an appeal within the
281 time period described in Subsection [~~(5)~~] (6)(b), the county legislative body shall:

282 (i) list the appeal, by property owner and parcel number, on the agenda for the next
283 meeting [~~of~~] the county legislative body [~~that is held~~] holds after the expiration of the time
284 period described in Subsection [~~(5)~~] (6)(b); and

285 (ii) hear the appeal at the meeting described in Subsection [~~(5)~~] (6)(d)(i).

286 (e) The decision of the county board of equalization shall contain:

287 (i) a determination of the valuation of the property based on fair market value~~[-]~~; and

288 (ii) a conclusion that the fair market value is properly equalized with the assessed value
289 of comparable properties.

290 (f) If no evidence is presented before the county board of equalization, [~~it will be~~
291 presumed] the county board of equalization shall presume that the equalization issue has been
292 met.

293 (g) (i) If the fair market value of the property that is the subject of the appeal deviates
294 plus or minus 5% from the assessed value of comparable properties, the county board of
295 equalization shall adjust the valuation of the appealed property [~~shall be adjusted~~] to reflect a
296 value equalized with the assessed value of comparable properties.

297 (ii) Subject to Sections [59-2-301.1](#), [59-2-301.2](#), [59-2-301.3](#), and [59-2-301.4](#), equalized
298 value established under Subsection [~~(5)~~] (6)(g)(i) shall be the assessed value for property tax
299 purposes until the county assessor is able to evaluate and equalize the assessed value of all
300 comparable properties to bring [~~them~~] all comparable properties into conformity with full fair
301 market value.

302 [~~(6)~~] (7) If any taxpayer is dissatisfied with the decision of the county board of
303 equalization, the taxpayer may file an appeal with the commission as [~~prescribed~~] described in
304 Section [59-2-1006](#).

305 [~~(7)~~] (8) A county legislative body may pass a resolution authorizing taxpayers owing
306 taxes on property assessed by that county to file property tax appeals applications under this

307 section by telephone or other electronic means.

308 Section 6. Section **59-2-1004.5** is amended to read:

309 **59-2-1004.5. Valuation adjustment for decrease in taxable value caused by a**
310 **natural disaster.**

311 (1) For purposes of this section:

312 (a) [~~"natural"~~] "Natural disaster" means:

313 (i) an explosion;

314 (ii) fire;

315 (iii) a flood;

316 (iv) a storm;

317 (v) a tornado;

318 (vi) winds;

319 (vii) an earthquake;

320 (viii) lightning;

321 (ix) any adverse weather event; or

322 (x) any event similar to an event described in this Subsection (1), as determined by the
323 commission by rule made in accordance with Title 63G, Chapter 3, Utah Administrative
324 Rulemaking Act[~~; and~~].

325 (b) "~~[natural]~~ Natural disaster damage" means any physical harm to property caused by
326 a natural disaster.

327 (2) Except as provided in Subsection (3), if, during a calendar year, property sustains a
328 decrease in taxable value that is caused by natural disaster damage, the owner of the property
329 may apply to the county board of equalization for an adjustment in the taxable value of the
330 owner's property as provided in Subsection (4).

331 (3) [~~Notwithstanding Subsection (2), an~~] An owner may not receive the valuation
332 adjustment described in this section if the decrease in taxable value described in Subsection (2)
333 is:

334 (a) due to the intentional action or inaction of the owner; or

335 (b) less than 30% of the taxable value of the property described in Subsection (2)
336 before the decrease in taxable value described in Subsection (2).

337 (4) (a) To receive the valuation adjustment described in Subsection (2), the owner of

338 the property shall file an application for the valuation adjustment with the county board of
339 equalization on or before the later of:

340 (i) the deadline described in Subsection 59-2-1004~~(2)~~(3); or

341 (ii) 45 days after the day on which the natural disaster damage described in Subsection
342 (2) occurs.

343 (b) The county board of equalization shall hold a hearing:

344 (i) within 30 days ~~[of]~~ after the day on which the county board of equalization receives
345 the application described in Subsection (4)(a) [is received by the board of equalization]; and

346 (ii) following the procedures and requirements of Section 59-2-1001.

347 (c) At the hearing described in Subsection (4)(b), the applicant shall have the burden of
348 proving, by a preponderance of the evidence:

349 (i) that the property sustained a decrease in taxable value, that:

350 (A) was caused by natural disaster damage; and

351 (B) is at least 30% of the taxable value of the property described in this Subsection
352 (4)(c)(i) before the decrease in taxable value described in this Subsection (4)(c)(i);

353 (ii) the amount of the decrease in taxable value described in Subsection (4)(c)(i); and

354 (iii) that the decrease in taxable value described in Subsection (4)(c)(i) is not due to the
355 action or inaction of the applicant.

356 (d) If the county board of equalization determines that the applicant has met the burden
357 of proof described in Subsection (4)(c), the county board of equalization shall reduce the
358 valuation of the property described in Subsection (4)(c)(i) by an amount equal to the decrease
359 in taxable value of the property multiplied by the percentage of the calendar year remaining
360 after the natural disaster damage occurred.

361 (e) The decision of the board of equalization shall be provided to the applicant, in
362 writing, within 30 days ~~[of]~~ after the day on which the county board of equalization concludes
363 the hearing described in Subsection (4)(b) [is concluded].

364 (5) An applicant that is dissatisfied with a decision of the county board of equalization
365 under this section may appeal that decision under Section 59-2-1006.

366 Section 7. **Effective date.**

367 If approved by two-thirds of all the members elected to each house, this bill takes effect
368 upon approval by the governor, or the day following the constitutional time limit of Utah

369 Constitution, Article VII, Section 8, without the governor's signature, or in the case of a veto,
370 the date of veto override.

Legislative Review Note
Office of Legislative Research and General Counsel